



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF MARCH 24, 2005**

CALL TO ORDER: Chairperson Harrison called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Harrison, Commissioners Chan, King, Lorenz, Lydon, Sharma, and Weaver (arrived 7:05 p.m.)

ABSENT: None

STAFF PRESENT: Jeff Schwob, Planning Director
Larissa Seto, Senior Deputy City Attorney II
Tom Williams, Special Assistant
Scott Ruhland, Associate Planner
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Henry Garcia, Video Technician

APPROVAL OF MINUTES: Regular Meeting of February 24 and March 10, 2005, were approved with the following corrections:

February 24:
Page 27: Chairperson Harrison speaking, ". . . light industrial and commercial uses were more appropriate."

Page 19: Vote tally – Ayes 7 6

March 10:
Page 9: "Chairperson Harrison disclosed . . . leasehold interest near the property and his decision making process would have no financial impact on those leases."

Page 29: First Vote Tally – Ayes 2 – ~~Lydon, Chan~~, Sharma Weaver
Noes: 4 – Lydon, Chan, Harrison Lorenz

CONSENT CALENDAR

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 2, 3, AND 4.

IT WAS MOVED (KING/LORENZ) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 2, 3, AND 4.

Chairperson Harrison announced that Item 4 would be taken separately, as requested by **Commissioner Lorenz**, and he thanked staff for adding the reason for the continuances to the agenda.

Item 2. **CITY BEACH, INC. – 4020 Technology Place – (PLN2005-00067)** - to consider a Finding and referral of an Amendment to a previously approved Zoning Administrator permit to allow ancillary live or recorded entertainment in conjunction with an existing recreational facility with

a full-service restaurant located in the Industrial Planning Area. A Mitigated Negative Declaration has been previously prepared for this project. Because no new impacts have been identified, no further environmental review is necessary. (Continued from March 10, 2005.)

DUE TO THE APPLICANT'S REQUEST FOR PROJECT MODIFICATIONS, STAFF RECOMMENDS THAT THE PROJECT BE CONTINUED TO APRIL 14, 2005.

- Item 3. JOES CORNER – 37713 Niles Boulevard – (PLN2005-00133)** - to consider a conditional use permit to operate a bar with beer and wine only in the Niles Planning Area. This project is categorically exempt from CEQA, per Section 15301, Existing Facilities.

AT THE REQUEST OF THE APPLICANT, CONTINUE TO A DATE UNCERTAIN.

The motion carried by the following vote:

AYES:	7 – Chan, Harrison, King, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

Commissioner Lorenz recused himself from the following item, because his business relationship with the applicant represented a conflict of interest.

IT WAS MOVED (KING/SHARMA) AND UNANIMOUSLY CARRIED BY THE FOLLOWING VOTE (6-0-0-0-1) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 4.

- Item 4. ALDER AVENUE BAPTIST CHURCH - 4111 Alder Avenue - (PLN2005-00172)** - to consider a conditional use permit amendment for the use of the Family Life Center Building by community groups offering educational programs. This project is categorically exempt from CEQA, per Section 15301; Existing Facilities.

HOLD PUBLIC HEARING;

AND

FIND PLN2005-00172 IS EXEMPT FROM CEQA PER SECTION 15301;

AND

FIND PLN2005-00172 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2005-00172, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, King, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	1 – Lorenz

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 1. **UNION STREET TOWNHOMES – 3536 Union Street – (PLN2005-00027)** - to consider a general plan amendment from 15-18 dwelling units per acre to 18-23 dwelling units per acre, a rezoning from R-G-29 to Preliminary and Precise Planned District and an environmental impact assessment to allow a 12 unit townhouse development on 0.54 acres located in the Irvington Planning Area. A Mitigated Negative Declaration has been prepared for this project. (Continued from March 10, 2005.)

MODIFICATION TO STAFF REPORT:

Inclusionary Zoning: The project meets the City's Inclusionary zoning requirements through the inclusion of one "for-sale" Below Market Rate (BMR) unit, as the project proposes 12 units, 15% of which must be BMR (12 x 15% = 1.8 units and where a project is smaller than 20 units, fractional units are not required). This one (1) BMR unit will consist of a three bedroom townhouse unit designed in the same manner as the other units and will be located within the project site as Unit #10.

However, the applicant has requested that the Inclusionary Zoning Requirement not apply to this project. The applicant has submitted a letter with this request, attached to this report as Exhibit "I". The applicant feels that this project was a continuation of PLN2001-00312 that was continued by the Commission on November 6, 2003 and since Inclusionary requirements did not apply to that project, they should not apply to this project.

Staff disagrees with the applicant's position because the current 12-unit application was submitted after the Inclusionary Ordinance went into affect. Staff feels that, although similar to the previous project, this project should be considered a new project because the property owner is new, a new application was filed and the project has been substantially redesigned.

Nonetheless, Staff requests a determination from the Commission as part of the recommendation responding to the applicant's request to waive the Inclusionary Zoning requirement for one unit.

MODIFICATION TO FINDINGS AND CONDITIONS:

EXHIBIT "D" Union Street Townhomes PLN2005-00027

FINDINGS

The following findings are made by the Planning Commission based on information in the staff report and testimony at the public hearing on March 24, 2005, incorporated hereby:

4. That any exception from standard ordinance requirements may be warranted by special design and planned district amenities incorporated in the future precise site plan, in accord with adopted policy of the Planning Commission and City Council. Upon proposal of a development project through the Planned District process, the applicant may propose modifications to the Fremont Municipal Code for Planning Commission consideration that will allow development that is consistent with the General Plan land use designation and the existing surrounding residences. Such modifications include the substitution of guest parking with resident parking, decreased landscaped setbacks, modified building setbacks, exclusion of street trees along the PVAW and use of a

tandem garage and are warranted by the use of high quality building materials such as wrought iron, limestone, concrete tile roof, slate tile entries and redwood trim; the use of brick pavers and porous concrete as the hardscape material; and the addition of a trellis, masonry BBQ grill and seating area in the common open space.

Mohammed Hyder Kahn, applicant, displayed a drawing that showed the original project design that was brought before the Planning Commission two years ago. Before purchasing the property, the applicant had reviewed the Commission's comments that were made about the original project. They had directed the applicant to make a complete design change, raise the density, move the project closer to the street, consider off-site parking, define each unit independently, and change roofline. There was no mention that a low-income unit was to be included and he asked that this requirement be waived. The Commission's recommendations were incorporated into the new design before the Commission. Each unit had a separate entry; units varied in size between 1,600 square feet to 1,800 square feet; units one through six would have front decks with storage underneath and accessible through the garage; and rear units would have private patios. Exteriors would be stucco with individual colors for each unit; entry doors and wood trim would be redwood stained; decks would have wrought iron railings; front terraces would have limestone veneer, along with limestone installed on the entry ways leading to the front doors. The common area would be a total of 900 square feet. A total of 24 parking spaces were required for residents and guests. These would be provided (12 units with two-car garages) for the residents. He requested that on-street parking be allowed for the six required guest parking spaces. He planned to give a portion of the property to the city, which amounted to a width of five feet that ran the length of the property. When the street was widened in the future, parking spaces would be eliminated. With this gift, 22 parking spaces would be added on the street. Along with the street landscape and sidewalks that the applicant would include in his project, all overhead utilities would be placed underground. He argued that this application was a continuation of a past project and, therefore, the low-income unit should not be mandated. The city had required him to file a new application to clear up the previous ownership and its representatives, which cost an unanticipated ten thousand dollars.

Chairperson Harrison disclosed that he had met with the applicant previously.

Commissioner Sharma also had met with the applicant and they knew each other.

Chairperson Harrison asked if the property to be given to the city was along High Street. He clarified that sidewalks, curbs and gutters and underground utilities would be part of the project.

Mr. Kahn answered that the project was on High and Union Streets and the five feet of property would be on both streets. He agreed that all street improvements would be included.

Commissioner Lydon asked what the ten thousand dollar fee was paid for.

Mr. Kahn stated that it was an application fee. He had originally expected to make a change of ownership while keeping the original application, but staff required that a new application be filed, because of the many previous owners and representatives associated with the original project. He had not realized that he would be required to provide a low-income unit when he made the new application.

Commissioner Weaver asked if he was required to provide the affordable housing unit, would it "kill this project."

Mr. Kahn replied that the affordable unit would sell for 318,000 dollars. The other units were expected to sell for close to 600,000 dollars and he would lose the profit from four of the other units.

Chairperson Harrison opened the public hearing.

Richard Cline, 30-year Union Street resident, stated that he also owned property adjacent to the project. He was not opposed to the project. However, he did not understand the applicant's claim that by donating five feet of the property frontage to the city, 22 parking spaces would be created, as those spaces were already there. Nearby apartment residents currently parked on Union Street and he worried that the residents of the new project would cause him to "be fighting for a parking space in front of my house." Parking problems were also exacerbated by the commercial businesses across the street. He stated, "I don't like it when you call my area a depressed area or you indicate that it's a shabby area." He suggested that only nine units be constructed, which would allow for visitor parking on the site.

Commissioner Weaver recalled that one reason the original project was sent back for redesign was because the Commission felt a higher density was more appropriate. She asked if the speaker was recommending that the project stay at the lower density.

Mr. Cline agreed and stated that nine units would be more appropriate than the proposed 12 units. Three stories at a height of 32 feet should shade his property, which he was willing to accept. He asked why the Commission wanted more units.

Commissioner Weaver replied that when small lots were developed, a greater density was expected.

Commissioner King felt that it was inconceivable that the applicant was providing what he was asked to do by the city, along with spending an additional ten thousand dollars, and he had opposition. He asked if the speaker's concern was the parking associated with the 12 units, not necessarily the total units. If parking could be taken care of, would he care if project consisted of nine or 12 units?

Mr. Cline stated that he was correct.

Commissioner Sharma assumed that the residents of this project would use their garages for their parking needs. He asked if the speaker had considered that guest parking would probably not be needed during the hours of 9 to 5 when the local businesses needed parking for their customers but generally after business hours.

Mr. Cline did not believe that the residents would not have any visitors, and he stated that some visitors might need parking space at 7:00 o'clock in the morning.

Commissioner Lorenz asked how the commercial area across the street would be influenced by the Irvington Concept Plan in the future.

Planning Director Schwob stated that area would, ultimately, convert to multi-residential, as well.

Bill Drake, 50-year resident on the corner of Union and High Streets, agreed with the previous speaker, as the apartment residents parked in front of his house and the parking was completely full, even in the morning. He, usually, did not have room for his visitors to park. He believed that no more than one vehicle would be parked in the two-car garages, with the other half used for storage. All parking should be provided within the complex.

Jerry Rodriques, 45-year High Street resident, concurred with the previous speakers. The units should be reduced to allow for on-site parking. Sometimes he could not find parking, although he had room for two cars in front of his house, due to the automotive repair shop across the street that started work at 6:00 a.m. He believed that the residents of this project whose units fronted on High Street would park in front of their residences rather than parking at the rear. He liked the project and believed it would help the neighborhood.

Ed Pentaleri, High Street resident, agreed that the project would be good for the neighborhood. However, he agreed with the previous speakers that less would be more. He worried that this project, with medium density housing, would allow for high density projects to be built in the neighborhood in the future. These massive buildings placed next to single-family homes would not be appropriate. His argument was to allow fewer units to be built now and, eventually, higher density projects would be more acceptable. He suggested that the 32-foot tall buildings should be moved back from the street corner a few feet, which would somewhat mitigate the massing. The planned common outdoor area of 900 feet was not impressive. Fewer units would allow for a larger common area and guest parking could be accommodated onsite. He also disagreed with the removal of approximately 80 percent of the existing trees, especially, two of the mature pepper trees along High Street. Mitigation should be improved for the removal of these trees. He agreed that widening the street would not add any more parking, unless double parking was to be allowed.

Salim Mastan congratulated all of the speakers who were long-time residents. He noted that many people working in the city lived somewhere else, because of the housing shortage. Quality housing would allow good people to continue to work in the city. Five roads met in this particular area and this beautiful new project, along with more projects that included restaurants and businesses, would encourage people to shop in the city rather than going to Santana Row. Examples, such as Trafalger Square in London and other cities in the world, were mentioned to show that when five roads met, those locations had become destinations.

Peter Jacobsohn, architect and 50-year resident, stated that he had been involved with the development of more than 500 townhomes in the city. All of the previous comments made by the previous Planning Commission had been taken to heart. He believed that the number of vehicles associated with this project would be lower than expected. More parking had been provided for the residents than was required by code. He suggested that the parking in front of the project be made available just for the residents, which stood to reason, as the commercial enterprises across the street should supply their own parking.

Commissioner Chan asked how the parking outside the complex would be dedicated for the residents.

Mr. Jacobsohn recalled that it had been done elsewhere in the city and he saw no reason that it could not be done at this location. Apartment residents across the street on Mattos Drive were restricted from parking in front of an adjacent development. Concerning this project, eventually, the businesses across the street from this project would be moved and multi-residential development would replace them, which should take care of the current parking problems. He asked why this project should be penalized for the current parking problems.

Mr. Kahn closed by reiterating that 24 parking spaces, as required by the city, would be provided within the project, although none of them would be designated for guests. He claimed that the six guest parking spaces, as required by the city, could be on the street. If he did not agree to contribute the five-foot frontage to the city, when High Street was widened, parking would not be available on both sides of the street. With the extra five feet, parking would again be available on both sides of the street. Six guest parking spaces were needed and 22 parking spaces would be available after the widening of the street. He stated

that the homes would have the garages on the lower level and living areas on the two upper levels. This was a good project that would bring others like it to the neighborhood.

Chairperson Harrison noted that there were two main issues for the Commission to decide: 1) Allowing guest parking on the street and 2) waiving the inclusionary ordinance requirement for one below market rate unit. He asked and **Mr. Kahn** answered:

- *If the Commission agreed to one of the issues above, which would the applicant prefer?*
He could not choose. He was not aware, originally, that he would have to offer an inclusionary unit and making one unit below market rate did not solve the parking problem.
- *Could another level could be added to two units to open up space on the ground for the six guest parking spaces?*
The garages would be on the first level, they would not be underground, and the other two levels would be living space, which made the units already three stories. A basic necessity was at least a two-car garage. He had been encouraged to consider offsite parking for guest needs.
- *To clear the project of the previous owners, etc., did he have to pay a 10,000 dollar fee, which resulted in a new planning number and the project was started over?*
When he acquired the project from the previous owner, his contract had a contingency clause that stated he would be using the same application. His first submittal to the city was made under that application. At that time, they were told to file a new application to remove all of the old information that concerned the first project.
- *Were there any fees that the applicant did not have to pay, because they had been paid by the previous owner?*
No, he had paid all fees.

Commissioner Lorenz asked if the sale of the one affordable unit at a below market rate represented the profit from the sale of four of the market rate units.

Mr. Kahn stated that selling the affordable unit for 300,000 dollars would not cover the cost of the land for that unit. He needed to sell each unit for approximately 600,000 dollars to make a profit. It was as if the profit for four of the units was tied up in the affordable unit.

Commissioner King asked if he planned to make a profit of 75,000 dollars per unit (300,000 dollars divided by four units). He asked staff if the affordable unit was a city requirement.

Mr. Kahn agreed that his profit per unit would be approximately 75,000 dollars.

Senior Deputy City Attorney Seto stated that the price was set based upon the size of the unit and this three-bedroom unit would be priced at 319,000 dollars.

Commissioner King asked why the applicant had to include a unit that would sell for 300,000 dollars when the rest would sell for 600,000 dollars.

Senior Deputy City Attorney Seto replied that the city's inclusionary ordinance required one unit for this 12-unit project.

Commissioner King asked if the city had required one inclusionary unit when the project originally came before the Commission with eight/nine units.

Senior Deputy City Attorney Seto stated that if the project application had been complete before January 1, 2003, it did not have to provide the inclusionary unit.

Commissioner King apologized to the applicant for what he had been through and he asked if it would be feasible to sell six of the units with a one-car garage, so that the six guest parking spaces could be onsite.

Chairperson Harrison asked staff to respond to Commissioner King's question.

Associate Planner Ruhland replied that one covered space and one half uncovered space for residents was required, with one half uncovered space for guests per unit.

Mr. Kahn did not believe a one-car garage unit would be feasible.

Senior Deputy City Attorney Seto clarified that when the Inclusionary Housing Ordinance was adopted, a provision was included that if applications were complete and pending before the city, those projects would not be subject to the inclusionary requirement, which was the case with the previous project. This project did not comply with the ordinance, as it was not completed before January 2003 and the same number of units was not proposed, which triggered the requirement to comply with the inclusionary ordinance.

Commissioner King, for the record, summarized that because the Commission made the original owner redesign the project to include more units, now this new owner had to comply with the inclusionary requirement.

Chairperson Harrison asked when the project originally had come before the Commission.

Associate Planner Ruhland replied that it came before the Commission on November 6, 2003, and, for the record, this application was filed on July 30, 2004.

Commissioner Sharma asked if the applicant was willing to provide the below market rate unit, although he did not wish to do so.

Mr. Kahn stated that if he had to provide a low-income unit, "it would blow four units up." He had used the old project and the notes from the Planning Commission to decide how to redesign the project. Because there was no inclusionary unit in the original project, he did not design his project to include one. He would prefer not to have to offer a below market rate unit.

Commissioner Lydon disclosed that he had spoken with Mr. Rodriguez, one of the previous speakers. He summarized that this developer had a project and a group of neighbors had more than a passing interest in the project, but were willing to accept it. However, the problem was parking. He asked if some kind of agreement could be reached with the commercial establishments across the street to make certain that the employees parked on site rather than on the street, which should ease the tension on the parking issue. He agreed that a temptation to park at one's front door rather than parking in one's garage would probably happen. It seemed there would be enough parking if the commercial employees parked on their business's site. Would this same argument have to be faced when the commercial property became available for housing or would they be charged with absorbing a higher rate of parking?

Special Assistant Williams replied that the applicant or staff could ask the commercial facility to request that their employees park on the property, as good neighbors, although there was no mechanism to condition that. Each future development project, on a case-by-case basis, would have to meet their onsite parking requirement.

Commissioner Lydon responded that a mechanism to annoy the long-time residents on this street was already present and the extra step to broker a deal should be made to free up the existing parking along the street.

Special Assistant Williams agreed that it was reasonable to contact the businesses to ascertain if they would be willing to police themselves in that manner.

Commissioner Chan asked if dedicated residential parking was available on Mattos Drive. Was the existing street presently wide enough to accommodate parking? Would the dedication of five feet of the applicant's property increase available parking?

Planning Director Schwob stated that many residential units had been built in the Mattos Drive area that did have the parking standards that were currently required. Eventually, a permit program was instituted that allowed residents to park in the area with a permit. This was not the city's choice, because it was time consuming and difficult to enforce with the time and staff constraints that the city was experiencing at this time.

Associate Planner Ruhland replied that the gift of five feet would allow High Street to be widened, as specified in the General Plan to 40 feet. Parking was now available, but the travel lanes were undersized.

Commissioner Chan asked if the developer was informed of the need to provide a below market rate unit when making an application to the city.

Associate Planner Ruhland stated that information was given to the applicant when the initial review was made.

Planning Director Schwob added that the application forms included the information, as well.

Commissioner Chan asked the applicant if he was aware of the below market rate requirement when he applied.

Mr. Kahn stated that he had created the design for his project based upon the previous comments made by the Commission about the original project. When he took his design to the city for review, he was told to file a new application and he was not told about the below market rate requirement. When he received comments from staff concerning his design, it was originally stated that he would need to provide two below market rate units. After having the Redevelopment Department review his plans, he was told that one below market rate unit would be required.

Commissioner Chan asked staff to comment on the fact that the applicant was not informed of the inclusionary ordinance at the time that he filed his application.

Associate Planner Ruhland stated that staff comments, dated August 30, 2004, did, incorrectly, indicate that the applicant would have to provide two below market rate units.

Mr. Kahn added that he was informed by the comments he had received from the city, but not when the application was filed.

Planning Director Schwob clarified that it was true that the city had asked for a new application, because the applicant was a new owner and it was a different project with more units. The applicant should have received a submittal handout form, which had the inclusionary ordinance requirement, because including it with the application form was required. However, it may not have occurred and the applicant may not have had early notification concerning the below market rate unit. When the project was reviewed, that information was included with staff's comments.

Commissioner Weaver asked if it was possible to make the inclusionary unit two bedrooms, rather than the current three bedrooms, which could reduce the loss of profit that the applicant would incur.

Mr. Kahn stated that he could lower the square footage of the inclusionary unit. However, it would not save him very much money, because of the costs of redrafting for that unit. Also, the unit would sell for approximately 200,000 dollars and one more bedroom would not cost 100,000 dollars to build, so it would not help to offset his profit loss. He agreed to include a market rate unit if he had to.

Commissioner Sharma asked what would happen in the future if the applicant declined to gift the five feet along the applicant's property line to the city. Would parking be available on both sides of the street?

Planning Director Schwob replied that he was generally correct. Currently, with parking on both sides of the street, traffic was constricted. The extra five feet would allow for standard width lanes with parking. There would be no curb cuts on High Street, which would improve the potential for street parking.

Commissioner Sharma asked if it was possible for the applicant to have stayed with the old application and to create a design that followed the Commission's original recommendations, which would have avoided the need for the inclusionary unit.

Senior Deputy City Attorney Seto stated that the below market rate unit was not only triggered by the new application, but it was triggered by the increase from eight units to twelve units in the project. Either fact would trigger the inclusionary ordinance.

Commissioner Sharma asked if the Commission truly had a choice when it came to deciding if the applicant could or should include the below market rate unit in his project. It seemed that there was no choice to make, as it was inclusionary.

Senior Deputy City Attorney Seto replied that would be her advice to the Planning Commission, because that was the language of the ordinance.

Commissioner King wondered why this issue was being discussed, if the below market rate unit was required by the city ordinance.

Senior Deputy City Attorney Seto stated that the applicant requested that this issue be heard by the Commission, and it was felt that his arguments should be heard by the Commission.

Commissioner Lorenz asked for the range of square footage for the units in this project.

Mr. Kahn answered that the average would be 1,650 to 1,750 square foot.

Commissioner Lorenz stated that Unit 12 seemed to be approximately 2,000 square feet.

Mr. Kahn stated that Units 1 through 6 would be approximately 1,650 square feet; Units 8, 9 and 10 would be approximately 1,750 square feet; Unit 11 would be 1,800 square feet; and Unit 12 would be approximately 2,000 square feet.

Mr. Drake (off mike) added that 1½ -car garages would create more parking problems than two-car garages would.

Chairperson Harrison closed the public hearing.

Commissioner Weaver stated that this project was a much better project than was the original project. The new applicant took into consideration every recommendation originally made by the Commission when preparing his project design. Therefore, she was not prepared to ask the applicant to downsize his project or to step it back from the sidewalk. This design was exactly what the previous Commission was looking for: "A more urban landscape and something that was more neighborhood friendly." The inclusionary unit should be a part of the project. She would support staff recommendation.

Commissioner King stated that he would, also, support the project. The inclusionary unit was not something the Commission was in a position to change. He believed that the applicant had not received timely notice concerning the inclusionary unit (although, many people claimed not to have received a notice when they had received one). He agreed that a new application should have been submitted. It was a wonderful project and because the applicant did what the Commission had recommended, he deserved approval for his project.

Chairperson Harrison would also support the project. As the first project "in the water" in this neighborhood, it was facing a lot of scrutiny. He sympathized with the neighbors' concerns about parking and suggested that a condition be added that stated the garage could not be used for storage and it must be made available for automobiles. Another suggestion was that no parking would be allowed between, for example, 2:00 a.m. and 6:00 a.m., to hinder long-term and overnight parking.

Planning Director Schwob suggested that staff consult with the Police Department to ascertain what had been effective in the past. He noted that challenges could be city staff checking the parking at that time of the morning or an overnight guest needing parking space.

Commissioner Sharma agreed with the garage parking suggestion, as the homeowners association could include it in their CC&Rs. This was a great project that would help to financially improve the properties in the neighborhood.

Commissioner Lorenz agreed with the comments made by the above Commissioners. He knew his in-laws' condominium complex towed vehicles left more than two days and he could see something similar could work with this development. He agreed that the below market unit should be included in the project. The proximity of this project to the BART station and the amenities that were sure to follow supported part of the vision of the Irvington Concept Plan. He would support the project.

Commissioner Lydon concurred, also, with the other Commissioners. He would like the city to broker a deal with the employers of the people who were parking on the street that would encourage them to park on the properties where they were employed. The neighbors had been dealing with a difficult situation and they needed some parking relief.

Commissioner Chan stated that it was obvious that the neighbors had a legitimate concern about the lack of parking in their area. However, they had not objected to the project, as it was one of quality and would bring greater value to the area. She agreed that it worth the effort to meet with the commercial businesses about onsite employee parking. She suggested that the neighbors and the applicant might want to take part in those meetings, also, which would show good faith by all concerned parties. She would approve this project.

Commissioner Sharma asked if signage could be installed that stated parking along the frontage of the project property was reserved "for the people who lived around this corner."

Planning Director Schwob stated that it was a public street and certain rules had to be followed, but his suggestion would be considered. Permit parking could be mandated, as well as, the parking duration could be limited. Staff understood the concern and a particular solution did not have to be specified in the conditions.

IT WAS MOVED (WEAVER/KING) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0)
THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND THAT THE CITY COUNCIL FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES. AS A RESULT, RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;

AND

RECOMMEND TO THE CITY COUNCIL THE ADOPTION OF DRAFT MITIGATED NEGATIVE DECLARATION FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE MITIGATION MONITORING PLAN FOR THE PROJECT;

AND

FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND HOUSING CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMEND TO COUNCIL APPROVAL OF PLN2005-00027 TO AMEND THE GENERAL PLAN LAND USE DESIGNATION FOR THE PROJECT IN CONFORMANCE WITH EXHIBIT "A" (GENERAL PLAN AMENDMENT EXHIBIT);

AND

FIND PLN2005-00027, AS PER EXHIBIT "C" (PRELIMINARY AND PRECISE SITE PLAN, FLOOR PLANS, ELEVATIONS AND LANDSCAPE PLAN), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

FIND PLN2005-00027 IS SUBJECT TO THE INCLUSIONARY ZONING REQUIREMENTS SET FORTH IN ARTICLE 21.7 OF THE FREMONT MUNICIPAL CODE;

AND

DIRECT STAFF TO CONTACT THE EXISTING COMMERCIAL ESTABLISHMENTS ACROSS THE STREET AND ASK THEM TO REGULATE PARKING SUCH THAT EMPLOYEES PARK ON-SITE RATHER THAN ON THE STREET IN THE SURROUNDING RESIDENTIAL NEIGHBORHOOD;

AND

ACCEPT AS COMPLETE:

**EXHIBIT 1 - PROFESSIONAL TEAM ENDORSEMENT
EXHIBIT 2 - PROPERTY OWNER CONSENT LETTER
EXHIBIT 3 - PROPERTY DESCRIPTION;**

AND

RECOMMEND TO THE CITY COUNCIL THE REZONING AS SHOWN ON EXHIBIT "B" (ZONING EXHIBIT) AND EXHIBIT "C" SHEET(S) 1-12 (PRELIMINARY AND PRECISE SITE PLAN, FLOOR PLANS, ELEVATIONS, GRADING/DRAINAGE PLAN AND LANDSCAPE PLAN) AND EXHIBIT "E" (MATERIAL COLOR AND SAMPLE BOARD) FOR

PLN2005-00027 BE APPROVED, BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "D".

The motion carried by the following vote:

AYES:	7 – Chan, Harrison, King, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	0
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
- Report on actions of City Council Regular Meeting of March 22, 2005.

Planning Director Schwob reported that the City Council:

- Heard and unanimously approved the Charter Development proposal for the Centerville Marketplace.
- Considered the text amendments for the industrial districts, which would lift the moratorium and not allow assembly uses in the General Industrial District, while allowing them on a case-by-case basis in the Restricted Industrial District. Staff was directed to meet with the religious community, which had turned out in number to object to the amendments. They wished assembly uses to continue to be considered on a case-by-case basis in the General Industrial District. Staff was also directed to reconsider the definition for "Sensitive Population." These issues would be brought before the City Council on April 12, 2003

Commissioner Chan noted that it was interesting that so many of the religious community had attended the City Council meeting but had not attended the Planning Commission. She also noted that **Council Member Natarajan** commented that many local communities were also struggling with accommodating the assembly situation without limiting business development.

Planning Director Schwob stated that staff felt the same way and had believed that an understanding had been reached and a balance had been struck by allowing assembly in the Restricted Industrial Districts. The opportunities for assembly had actually been broadened by allowing the use of any buildings and a new building did not have to be built upon an eight-acre site.

- Information from Commission: Commission members may report on matters of interest.

Chairperson Harrison welcomed Special Assistant Williams to his first Planning Commission meeting.

Meeting adjourned at 8:45 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

Tom Williams, Secretary
Planning Commission